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SEATTLE

SERGEANT'S SON UNHAPPY WITH COURT VICTORY

A Tacoma man reacted bitterly to a federal judge's awarding him \$15,000 because the government failed to tell the truth when his father was killed in Southeast Asia in 1968.

"That is embarrassing," said Rudy Kirk, 31, when informed of the judgment by U.S. District Judge Daniel Thomas in his case against the federal government. "That doggone turkey."

The visiting judge from Alabama, who held a two-day non-jury trial in Seattle last March, called the government's action "inexcusable" and awarded Kirk \$15,390 in lost education benefits.

Thomas said he would have awarded additional funds for lost health and commissary privileges, but insufficient evidence was presented at the trial for him to do so.

However, he did not address the issue of mental anguish -- which Kirk's attorney, Howard Pruzan of Seattle, called "the main point of our lawsuit."

The lawyer said he would ask Thomas to reconsider his decision to take into account the anguish Kirk "suffered for years when he didn't know whether his father was dead or alive."

Kirk last saw his father, Herbert A. Kirk, an Air Force staff sergeant, in Bellingham in 1967.

The 38-year-old career serviceman told his family he was going on a year-long secret mission behind enemy lines in Thailand and for security reasons he and 60 other men would officially leave the service and pose as civilians.

The family was notified April 1, 1968, that Kirk was missing in action. Two months later, officials of Lockheed Aircraft Corp. told the family Kirk was apparently killed March 11, 1968, in Laos, although there was a chance he was still alive.

In 1975, the younger Kirk learned his father had been part of a CIA-backed Air Force mission called Project Heavy Green, in which a ground team directed U.S. bombers to targets in North Vietnam.

All the wives of men on the mission were briefed in advance except Stephanie Kirk, who was excluded because she was German.

Kirk was the only man who died in the attack who was not promptly reinstated in the Air Force, the judge's opinion noted. It wasn't until last year, in hopes of settling the suit, that the Air Force declassified Project Heavy Green and reinstated Kirk in the Air Force.

"The court sees no justification for the Air Force's negligent failure to inform Sgt. Kirk's family of his certain death and its negligent failure to reinstate him so that his family could reap the property benefits for his dedicated service," Thomas wrote.

"The court feels that the government has handled the Kirk situation in an inexcusable fashion."